2011/2012
Report of the LEGAL SERVICES BOARD OF THE NWT

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THE BOARD OF DIRECTORS

Board Members

The Minister of Justice appoints members of the Board of Directors under section 3 of the *Legal Services Act*. The *Act* provides for representation on both a regional and interest basis. By convention the various regions are represented on the Board. In accordance with that section, the 2011/12 Board was composed of the following:

Louis Sebert	Chair, representing the Law Society
Giselle Marion	Representing the Tłı̨chǫ and North Slave communities
Karan Shaner	Representing the Public Service to October 21, 2011
Mark Aitken	Representing the Public Service from November 17, 2011
Ron Holtorf	Representing the Akaitcho
Sandra Suliman	Representing the Beaufort Delta
Roberta Hamilton	Representing the South Slave

Mandate of the Board of Directors

The Board sets policy, makes recommendations to the Minister with respect to the hiring of the Executive Director, administers legal aid clinics, maintains a panel of private lawyers for eligible clients for criminal, family, and civil matters, and hears appeals in cases where legal aid has been denied or lawyers feel their accounts have been reduced without justification. Additional powers are prescribed under section 11 of the *Legal Services Act*.

LEGAL SERVICES BOARD

The Government of the Northwest Territories has been responsible for providing legal aid since 1971. The Legal Services Board was established and given responsibility for providing legal aid, court worker services and public legal education and information services throughout the Northwest Territories.

Today, the Board operates four legal aid clinics; three clinics, two in Yellowknife and one in Inuvik, provide both family and criminal law services and a second clinic in Yellowknife provides family, criminal and legal aid outreach (poverty law) services. The clinics serve clients in all the communities in the NWT.

The Legal Services Board is established as a corporation by the *Legal Services Act*. The Board reports to the Minister of Justice and is a public agency listed in Schedule A to the *Financial Administration Act*. All Board employees are members of the GNWT Public Service.

Legislative Objectives

The objects of the Board are set out in section 7 of the *Legal Services Act:*

1. To ensure the provision of legal services to all eligible persons;

2. To ensure that the legal services provided and the various systems for providing those services are the best that circumstances permit; and

3. To develop and co-ordinate territorial or local programs aimed at:
   (a) reducing and preventing the occurrence of legal problems, and
   (b) increasing knowledge of the law, legal processes and the administration of justice.

Board Meetings

The Legal Services Board met in Yellowknife on three occasions in 2011/12:

May 4, 2011
September 22, 2011
February 22, 2012

ORGANIZATIONAL STRUCTURE

The following organization chart reflects the structure of the Legal Services Board as of March 31, 2012.

COURT WORKER PROGRAM

Ulukhaktok, NT area photo taken by: Val Watsyk Court Worker

In the Northwest Territories, court workers help people who come into contact with the justice system. Their primary duty is to help clients apply for legal aid and ensure that applications and supporting documentation are provided to the Legal Aid office. Court workers also provide general information and referrals to services inside and outside the justice system. They are an important liaison between clients and lawyers and the justice system - particularly in more remote communities which do not have the benefit of resident lawyers and where justice is primarily accessed through the court circuit system.

Some court workers may also represent individuals without a lawyer in Justice of the Peace Court. They generally provide assistance with guilty pleas, the resulting sentencing hearings and occasionally with simple trials. They also assist legal counsel in Territorial Court and Youth Justice Court by ensuring clients and witnesses attend court, helping with translation and communication, gathering information, and interviewing clients. On occasion court workers may help a client with a guilty plea and sentencing in Territorial Court.

Court workers also play a direct role in public legal education through their daily contact with clients, providing information and guidance with respect to the court system and through their referral to other services. Court workers provide legal education through their work with school classes and community justice committees, and promote the program by attending at community career fairs, placing public announcements on the radio and providing information at seminars and programs in their communities. Some court workers also sit on community inter-agency committees.

The Legal Services Board has eight court workers positions. Seven of those are located in communities outside Yellowknife and provide services in all regions of the NWT. All are GNWT employees and members of the public service. The Aboriginal Court Worker Program has had Federal financial support since 1978.

Paulatuk NT photo taken by: Val Watsyk Court

LEGAL AID OUTREACH (POVERTY LAW) PROGRAM

In 2011-12 this program expanded significantly. The lawyer established a series of "in person" community visits starting with the court circuit points and travelling with the court. Coordinating with regional court workers to assist with advance advertising and client contact, the program experience a high level of interest and attendance at sessions. By the end of the year the lawyer had visited every circuit community at least once, and had travelled to a number of other communities that do not have circuit courts.

It has become clear from the legal aid outreach lawyer's experience and feedback from clients that there is a need for assistance with wills in the communities. This is not a service that is available to most in smaller communities, and as people resolve residential school claims they are asking for more certainty and control in the ultimate dispersal of those funds. As a result, the Board has established a wills project within the legal aid outreach program. The lawyer has travelled to a number of communities and given presentations on wills. These have been in some cases coordinated with the assistance of the local band councils which have covered some travel costs for the lawyer. Wills have been drawn up for formal execution within the communities. The feedback on this project has been very positive and the demand is steady.

The program itself is proving very popular, and the weekly clinic in Yellowknife is consistently well subscribed. The demand from communities for "in person" clinics continue, and is being met with regular travel to communities to meet with clients. The legal aid outreach lawyer is able to provide a broad range of services, referrals and assistance to clients throughout the jurisdiction. Longer term plans would have the Board hiring a second lawyer to assist in the expansion and delivery of the program.

PUBLIC LEGAL EDUCATION & INFORMATION

The Legal Services Board is responsible for Public Legal Education and Information in the Northwest Territories. Public legal information is disseminated in a number of formal and informal ways. While no new materials were produced in 2011/12, the expansion of the poverty law program has allowed that lawyer to deliver informal public legal education sessions in conjunction with community visits. Most notable has been the wills project that has disseminated information on wills and estates.

LEGAL AID COVERAGE

Youth Applications – *Youth Criminal Justice Act (Canada), Youth Justice Act (NWT)*

Legal services are generally provided to financially eligible youth charged with offences under the *Criminal Code* and who are required to make an appearance before a Territorial Youth Justice Court Judge, or if a matter is brought before the NWT Supreme Court or the Court of Appeal. The Board does assess family income when looking at eligibility. On occasion, legal aid coverage may be extended to cover matters in the Justice of the Peace Court.

Legal aid coverage is not provided for youth for criminal or other statutory offences where the matter(s) are proceeding by way of summary conviction, unless:

1. There is a reasonable possibility that upon conviction the youth may be incarcerated by way of open or secure custody;

2. There is a reasonable possibility that upon conviction, the youth's livelihood may be prejudiced; or

3. The Executive Director considers that special circumstances apply.

Adult Applications – *Criminal Code*

Although an applicant may be financially eligible for legal aid, the Board or Executive Director can refuse to provide legal aid coverage for certain offences in accordance with the discretion extended in the *Legal Services Act* and the regulations under the Act.

Presumed Eligibility

Presumed eligibility arises only in the context of criminal law. Clients who first appear in Territorial court are presumed eligible for legal aid, and are provided assistance with preliminary or straightforward matters that duty counsel can deal with in a summary fashion. This includes guilty pleas and non-complex sentencing hearings. If the lawyer determines that the matter requires a preliminary inquiry, trial or a more complex sentencing, the client is told to apply for legal aid to have a lawyer appointed.

Civil Applications

The *Legal Services Act* authorizes the provision of legal aid services on a discretionary basis for some civil matters. The Act and Regulations specify that certain civil cases are not covered. The Executive Director may refuse to authorize legal aid if the civil case is of the type where a lawyer would ordinarily agree to act on a contingency basis.

Examples of civil related matters that have received legal aid coverage: workers' compensation appeals, residential tenancy appeals, and certain wrongful dismissal cases.

Family Law Applications

Legal aid is generally provided to financially eligible applicants in matters involving family breakdowns when there are issues relating to children, spousal support, family violence, and in matters relating to child protection.

After a client completes an application for legal aid assistance involving a family law matter, a request goes out to one of the staff lawyers to or a member of the family law panel for a legal opinion. The lawyer must advise the Legal Services Board on the merits of the matter. If the opinion is that there is no merit in proceeding, the applicant will receive a Notice of Denial of Legal Aid and an explanation of the reason for the denial.

Approved matters are usually assigned according to the date of application. An exception is made, and matters are given priority in assignment, when the client is facing a court date, if the matter involves family violence, or if the client is facing child protection proceedings.

Residency and Reciprocity

A person who is not ordinarily resident in Canada is not eligible for legal aid coverage except in relation to charges under two federal Acts.

The Legal Services Board of the NWT is a participant in the Inter-Provincial Reciprocity Agreement that allows legal aid coverage to be extended to applicants from any jurisdiction who require assistance with a civil or family matter arising in another Canadian jurisdiction. The costs of providing the service are borne by the legal aid plan in the jurisdiction where the matter is to be heard. The NWT program uses this service in the family law area.

FINANCIAL ELIGIBILITY

Legal Aid Applications

People must complete an application to receive legal aid. The Board uses standard forms and court workers take the applications in person or by telephone. Applicants are usually required to provide detailed financial information with backup documents. This information includes a statement of income for the applicant and anyone living in the household plus a detailed statement of expenses, liabilities, debts, and assets. This information is used to determine an individual's eligibility for legal aid.

Board employees review applications in detail to determine the applicant's financial eligibility. Eligible applicants are assigned duty counsel for criminal matters or go into a rotational assignment process for family and civil law matters. Applicants who are not financially eligible are sent a notice of denial. All applicants can appeal a denial to the Executive Director and then to the Legal Services Board.

In some cases, using criteria set out in the Act and Regulations, the staff may determine that an applicant can make a contribution to the cost of their legal aid services. A conditional authorization for legal aid is given to the applicant requiring a contribution in order to receive legal aid. Usually applicants have a set time period to make their contributions. Some applicants are assessed a contribution to be paid on the completion of their file, as it is expected there will be a financial gain for the client at that time. In cases involving property division, applicants may be subject to a full recovery of fees and disbursements incurred on their behalf.

Contributions and recoveries are deposited into the Government of the NWT Consolidated Revenue Fund and are not used to directly offset the cost of legal aid.

Financial Eligibility for Youth, Minors and Infant Children

In determining whether a youth, as defined by the *Youth Criminal Justice Act*, (Canada) (at least 12 years of age but less than 18 years of age), or a minor, within the meaning of the *Age of Majority Act,* is eligible for legal aid, the Legal Services Board must consider the financial eligibility criteria of the youth's parents or guardians. The Board does exercise discretion when making a determination. For example, if a youth or minor's interests conflict with that of the parent(s), then the Board will provide legal aid services even if the youth may not be financially eligible.

The Legal Services Board has an arrangement with the Director of Child and Family Services within the Department of Health and Social Services, to recover the costs of appointing legal counsel for children when the Court has ordered that the children require their own lawyer in child protection proceedings under the *Child and Family Services Act*. The need for this arrangement will decease with the implementation of the Office of the Children's Lawyer.

LEGAL AID ASSIGNMENTS

Panels

The *Legal Services Act* requires work be assigned to members of the Panel in rotation on a fair and equitable basis. The Executive Director assigns approved applicants a lawyer from the Legal Aid Panel. Lawyers located in communities other than Yellowknife get priority for legal aid assignments in their community and the surrounding area for reasons of economic efficiency and to support the local bar.

Choice of Counsel

Applicants do not get to choose a lawyer unless they are charged with offences for which the maximum penalty, if convicted, is life imprisonment. However, there is no choice of counsel where an applicant is charged with break and enter under the *Criminal Code* or a trafficking offence under the *Controlled Drugs & Substances Act* (CDSA) where life imprisonment is the maximum sentence. An approved applicant who has choice of counsel may choose any lawyer resident in the Northwest Territories who is on the panel and willing and able to take the case.

Salt Plains, Fort Smith NT photo taken by: Shari Olsen Court Worker

Circuit Counsel

The *Legal Services Act* requires the Board to have at least one lawyer (circuit counsel) accompany the Supreme Court and Territorial Court on all circuits where a lawyer may be required for the delivery of legal aid on the circuit. Applicants for such services are subject to the same criteria as all other applicants who need legal services.

LEGAL SERVICES CLINICS

The Board received funding from the GNWT to add three lawyers to its staff lawyer complement; two in 2010/11 and a third in 2011/12. The total staff lawyer complement at March 31, 2012 is 14 between four clinics.

Tulita, NT photo taken by: Shari Olsen Court Worker

Yellowknife Law Office

The Yellowknife Law was staffed by 2011/12 year end with three criminal lawyers, one family lawyer and one legal secretary. The staff lawyers provide services throughout the NWT.

Beaufort Delta Legal Services Clinic

The Beaufort Delta Legal Services Clinic operates in Inuvik and provides services to all communities in the region. This year it was staffed with one family lawyer and one legal secretary. Criminal law services in the region were provided for all circuits by travelling defence counsel.

Community Law Office

Formerly known as the Family Law Clinic in Yellowknife, this office was staffed, by 2011/12 year end with two family lawyers, one legal aid outreach/family lawyer, one criminal lawyer and one legal secretary. The staff lawyers provide services to clients throughout the NWT.

Somba K'e Law Office

This office was staffed in 2011/12 with one criminal lawyer, three family lawyers and one legal secretary. The staff lawyers provide services to clients throughout the NWT.

APPEALS

Some decisions made by the Executive Director may be subject to an appeal to the Board. If an applicant is assessed a contribution or denied legal aid, the applicant may appeal the decision by providing written notice of his/her intention to appeal, and the Executive Director shall then bring the matter before the Board for an appeal hearing.

Court Party in Inuvik, NT photo taken by: Val Watsyk Court Worker

Lawyers also have the right to appeal the Executive Director's taxation of an account. Written notice is required, and the Executive Director will then bring the matter to the Board for an appeal hearing. There is no further right of appeal from the Board's decision.

There were seven eligibility and two taxation appeals before the Board in 2011/12. The taxation appeals were both allowed. One eligibility appeal was withdrawn before hearing, four were dismissed and coverage denied, one was allowed with limited terms of coverage, and one was referred for a second legal opinion. After a review of the second legal opinion the appeal was dismissed and coverage denied.

ADMINISTRATION AND FINANCE

Funding for the Legal Services Board

The Legislative Assembly allocates money to the Legal Services Board to administer the *Legal Services Act* and provide legal services and other programs under the Act. The GNWT receives funding for the Legal Aid Program, aboriginal court workers, and public legal education through the Access to Justice Agreement with the Government of Canada. Federal funding has been set at $1,972,327 since 2006/07. Additional special projects have been funded by the Federal Government from time to time.

The GNWT committed additional funding to increase the number of staff lawyer positions to a total of fourteen in 2011/12.

Any deficits incurred by the Legal Services Board are covered from within the appropriation of the GNWT Department of Justice. Any change in that arrangement would mean requesting a supplementary appropriation from the Legislative Assembly.

Personnel

The staff of the Legal Services Board are appointed and employed under the *Public Service Act* and are employees of the GNWT Department of Justice. The Department of Human Resources provides personnel services to the Board.

Financial Services

Financial services are provided by the Department of Justice. Since the Board does not hold separate funds, it is audited in conjunction with the Department of Justice. A separate annual independent audit is completed for compliance with the Access to Justice Agreement with Canada.

LEGAL AID TARIFF*

Experience	Hourly Rates ($)	Daily Rates ($)
Student at law	53	307
Less than 4 years	81	465
4-6 years	93	576
7-10 years	114	681
11 & more years	135	805

The rates are the same regardless of the level of court where legal aid services are provided.

STAFF LAWYER SALARIES

Staff lawyers, as GNWT employees, are paid according to the pay scales established for GNWT legal counsel. These rates are based on legal experience and were as follows for 2011-2012.

Legal Counsel I	88,062 – 105,144
Legal Counsel II	96,369 - 115,050
Legal Counsel III	106,495 – 125,951
Legal Counsel IV	115,343 – 137,748
Legal Counsel V	120,686 – 144,105

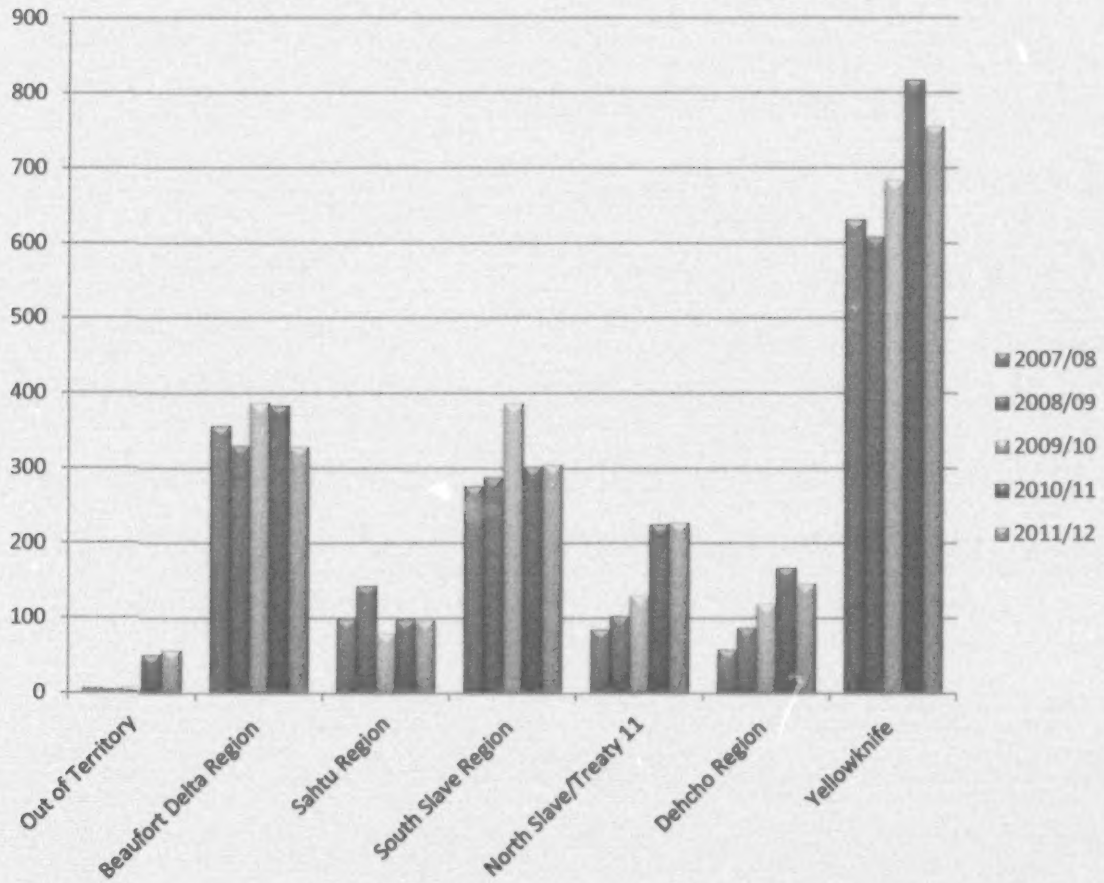
Financial Report 2011/12

	Actual Expense	2011/12 Main Estimate	Year Variance
Legal Services Board Administration			
Staff Wages and Benefits	628,517	558,000	(70,517)
Operations & Maintenance Expenses	58,409	38,000	(20,409)
Public Education	9,167	0	9,167
Total Administration	696,093	596,000	(100,093)
Court Workers			
Staff Wages and Benefits	794,467	1,035,000	240,533
Operations & Maintenance Expenses	32,079	32,000	(79)
Travel	98,051	59,000	(39,051)
Total Court Workers	924,597	1,126,000	201,403
Legal Aid Staff Lawyers			
Staff Wages & Benefits	1,861,837	2,121,000	259,163
Operations, Maintenance	127,827	160,000	32,173
Total Legal Aid Staff Lawyers	1,989.664	2,281,000	291,336
Legal Services Board			
Board Expenses	14,990	-	(14,990)
	(14,990)	-	(14,990)
Legal Aid Fees & Disbursements			
Legal Aid Fees/Disbursements	1,291,798	1,624,000	332,202
Travel and Transportation (includes staff lawyers)	365,331	236,000	(129,331)
Total Legal Aid Fees & Disbursements	1,657,129	1,860,000	202,871
TOTAL	5,282,473	5,863,000	580, 527

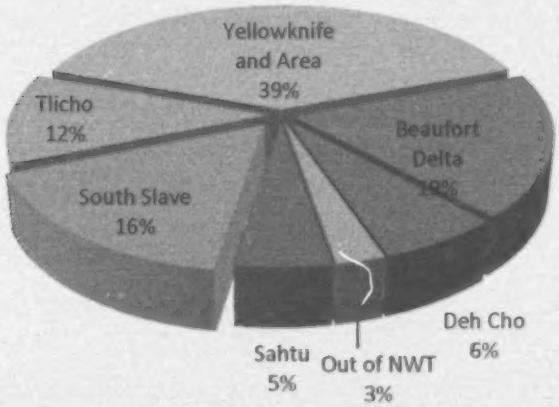
STATISTICAL REPORTS FOR 2011/12

Number of Applications Received

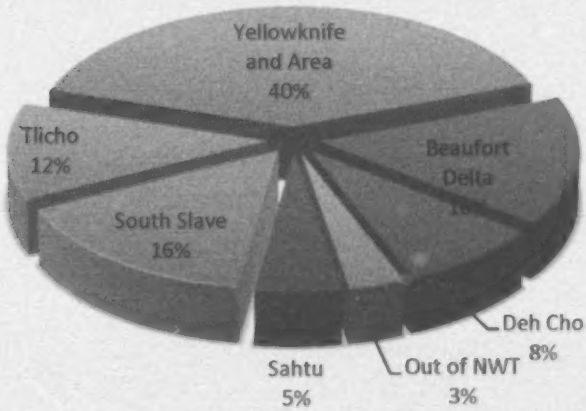
	2007/08	2008/09	2009/10	2010/11	2011/12
Out of Territory	7	5	8	52	58
Beaufort Delta Region	357	331	388	384	329
Sahtu Region	100	144	81	99	98
South Slave Region	277	289	387	303	305
North Slave	86	104	131	226	228
Dehcho Region	59	88	120	168	147
Yellowknife	632	609	685	818	756



Family Applications 2011/2012

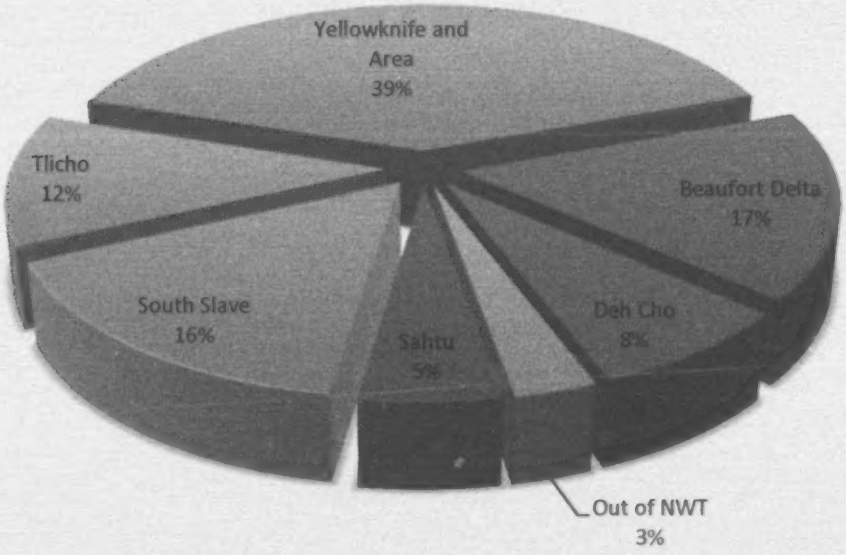


Criminal Applications 2011/2012



By Regions	Criminal Applications	Family/Civil Applications
Beaufort Delta	146	181
Deh Cho	53	95
Out of NWT	21	37
Sahtu	42	57
South Slave	131	174
Tlicho	92	136
Yellowknife and Area	309	447

Origin of Application for 2011/12

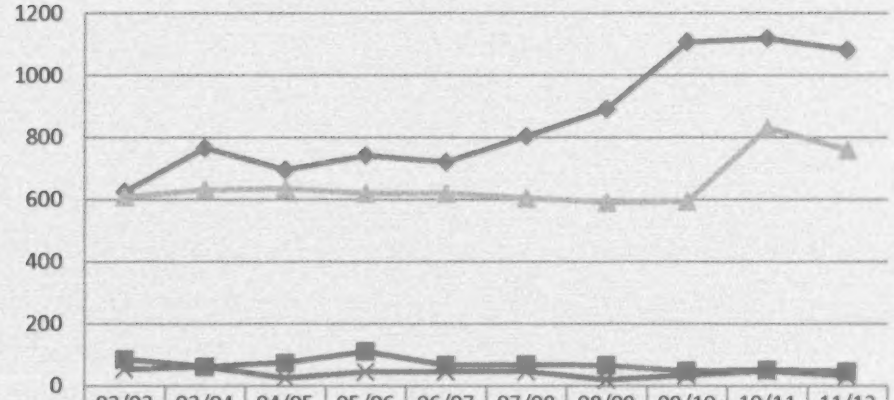


Origin Of Application for 2011/12

Beaufort Delta	327
Deh Cho	148
Out of NWT**	58
Sahtu	99
South Slave	305
Tlicho	228
Yellowknife and Area	756

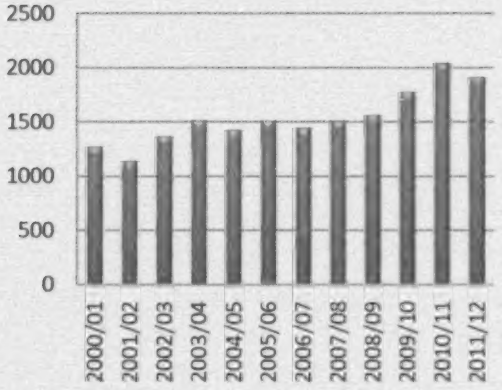
**Out of NWT includes: 5 criminal appeals, 32 criminal matters and 21 family matters

Number of Applications Received by Case Type. Fiscal years 2002/03 to 2011/12

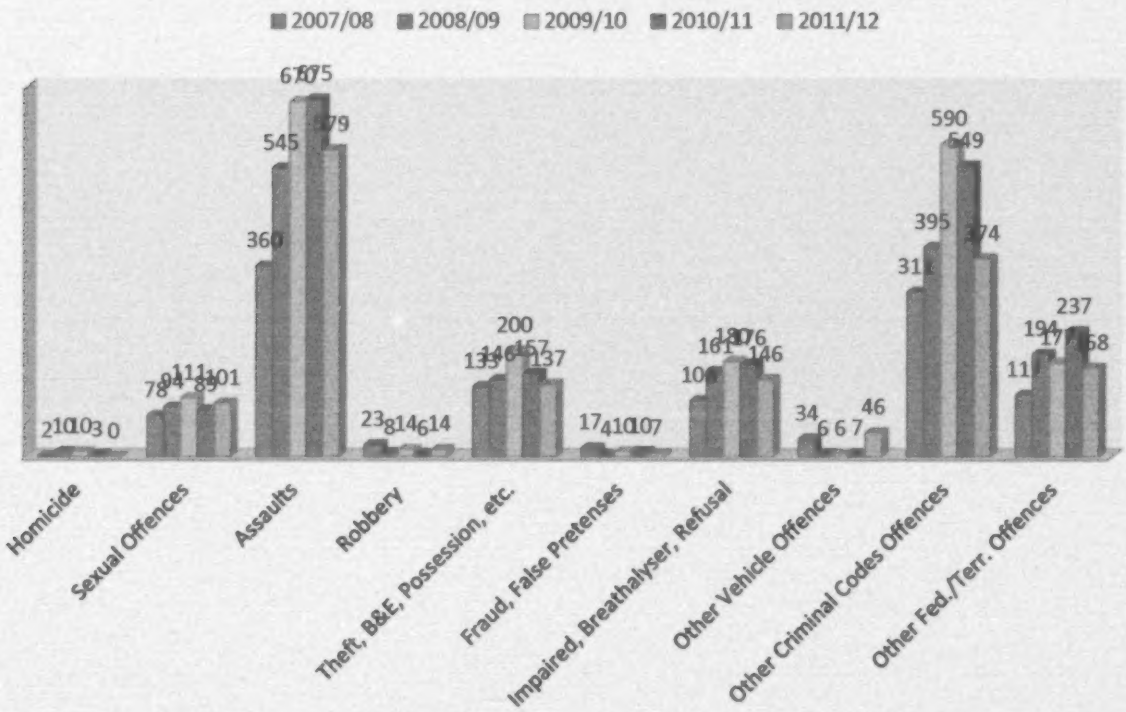


	02/03	03/04	04/05	05/06	06/07	07/08	08/09	09/10	10/11	11/12
Adult Criminal	626	766	696	742	721	804	892	1108	1119	1082
Youth Criminal	86	62	75	111	67	69	66	48	52	47
Family	609	633	636	621	621	606	591	595	832	760
Civil	53	61	26	45	46	46	20	34	47	32

Applications Received



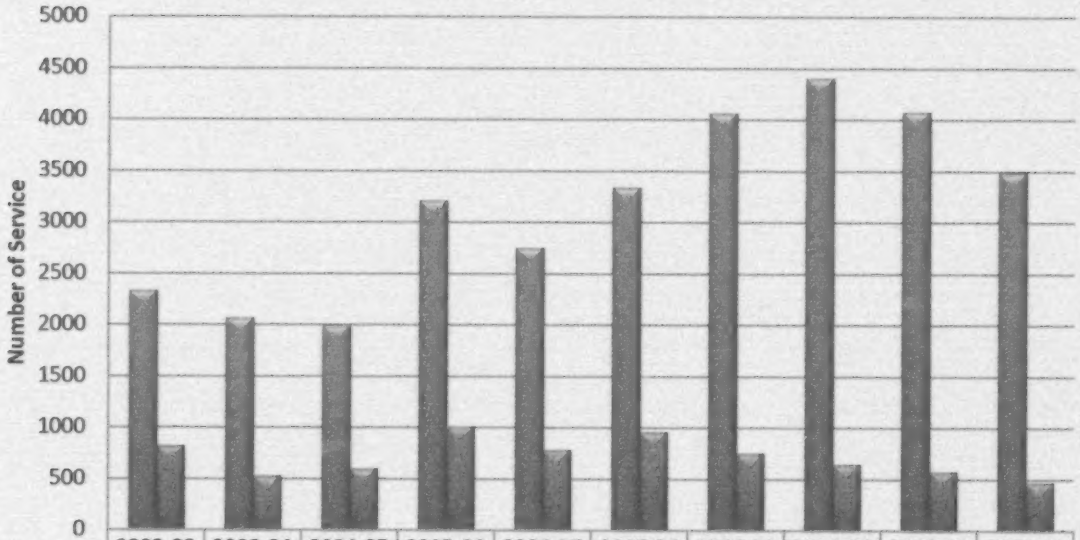
BRYDGES SERVICES NUMBER OF CALLS BY TYPE OR MATTER/ADULT/YOUNG OFFENDER



	2007/08	2008/09	2009/10	2010/11	2011/12
Homicide	2	10	10	3	0
Sexual Offences	78	94	111	89	101
Assaults	360	545	670	675	579
Robbery	23	8	14	6	14
Theft, B&E, Possession, etc.	133	146	200	157	137
Fraud, False Pretenses	17	4	10	10	7
Impaired, Breathalyser, Refusal	106	161	180	176	146
Other Vehicle Offences	34	6	6	7	46
Other Criminal Codes Offences	311	395	590	549	374
Other Fed./Terr. Offences	117	194	177	237	168
Yearly totals	**1181**	**1563**	**1968**	**1909**	**1572**

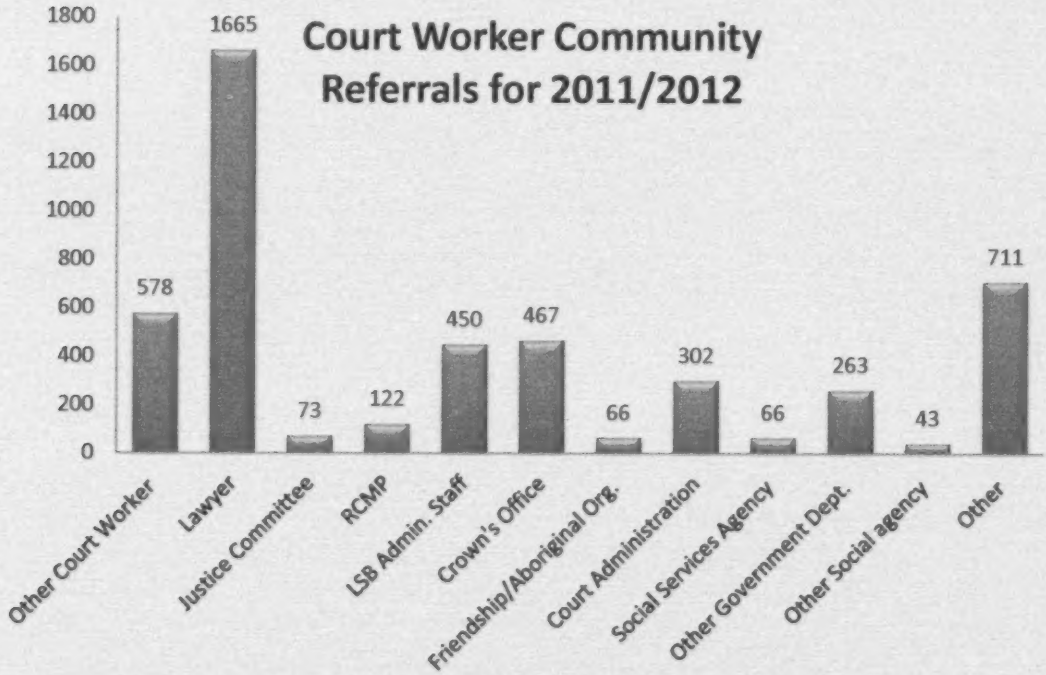
Phone calls made by detained persons who wish to exercise their right to legal advice upon arrest.

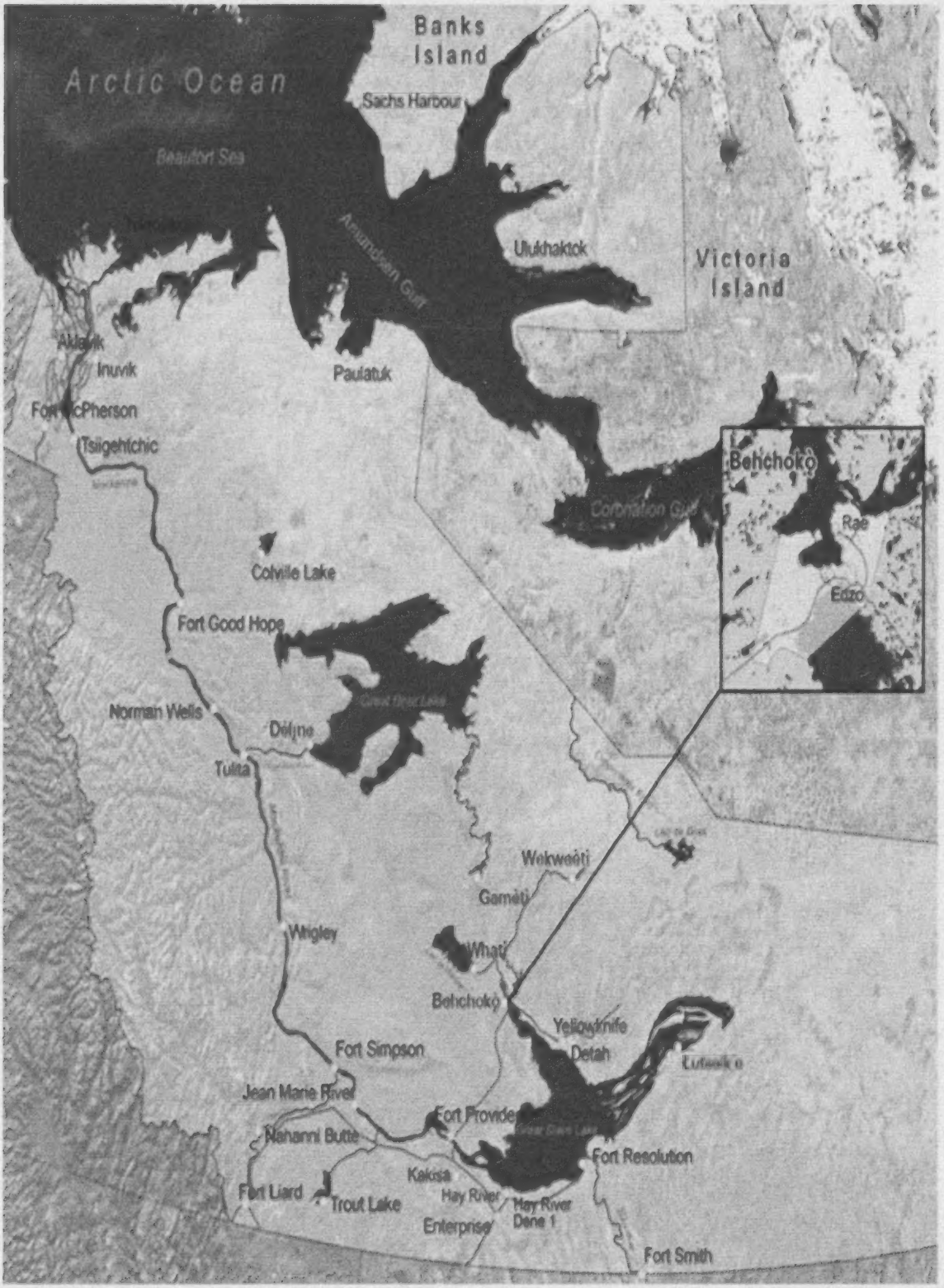
Presumed Eligibilty Statistics



	2002-03	2003-04	2004-05	2005-06	2006-07	2007-08	2008-09	2009-10	2010-11	2011-12
Adult	2336	2070	1998	3216	2755	3346	4067	4409	4081	3491
Youth	825	532	604	1013	788	962	756	651	580	475

Court Worker Community Referrals for 2011/2012




Banks Island
Arctic Ocean
Sachs Harbour
Beaufort Sea
Amundsen Gulf
Ulukhaktok
Victoria Island
Aklavik
Inuvik
Paulatuk
Fort McPherson
Tsiigehtchic
Behchokǫ̀
Rae
Edzo
Coronation Gulf
Colville Lake
Fort Good Hope
Great Bear Lake
Norman Wells
Déljne
Tulita
Wekweètì
Gamètì
Whatì
Wrigley
Behchokǫ̀
Yellowknife
Detah
Fort Simpson
Jean Marie River
Fort Providence
Nahanni Butte
Fort Resolution
Kakisa
Fort Liard
Trout Lake
Hay River
Hay River Dene 1
Enterprise
Fort Smith

OFFICE LOCATIONS AND CONTACT NUMBERS

Legal Services Board of the NWT
4915 48th Street 3rd Floor, YK Centre East
P.O Box 1320
Yellowknife NT X1A 2L9
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Fax: (867) 873-5320

LAW CLINICS

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3rd Floor, YK Centre East
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Yellowknife NT X1A 3X7
Tel: (867) 920-6108
Fax: (967) 873-0526

Beaufort Delta Legal Services Clinic
2nd 151 MacKenzie Road
P.O. Box 1100
Inuvik NT X0E 0TO
Tel: (867) 777-2030
Fax: (867) 777-3211

Community Legal Aid Clinic
8, 4915 – 48th Street
3rd Floor, YK Centre East
Yellowknife, NT X1A 3R7
Tel: (867) 920 3365
Fax: (867) 873 0652

Somba K'e Law Office
5, 4915 – 48th Street
2nd Floor, YK Centre East
Yellowknife, NT X1A 3R7
Tel: (867) 873-7964
Fax: (867) 920-6270

COURTWORKERS

South Slave Region
105 – 31 Capital Drive
Hay River NT X0E 1G2
Tel: (867) 874-2475
Fax: (867) 874-3435

Tli Cho Communities
General Delivery
Behchokǫ̀ NT X0E 0Y0
Tel: (867) 392-6386
Fax: (867) 392-6387

Fort Smith
P.O. Box 170
Fort Smith NT X0E 0P0
Tel: (867) 872-6568
Fax: (867) 872-3602

Yellowknife Area
P.O. Box 1320
Yellowknife NT X1A 2L9
Tel: (867) 873-7450
Fax: (867) 873-5230

Deh Cho Region
P.O. Box 178
Fort Simpson NT X0E 0R0
Tel: (867) 695-7315
Fax: (867) 695-7358

Tuktoyaktuk
P.O. Box 200
Tuktoyaktuk NT X0E 1C0
Tel: (867) 977-2260
Fax: (867) 977-2154

Beaufort Delta Region
P.O. Box 1100
Inuvik NT X0E 0T0
Tel: (867) 777-2030
Fax: (867) 777-3211

Sahtu Region
P.O. Box 239
Fort Good Hope NT X0E 0H0
Tel: (867) 598-2762
Fax: (867) 598-25